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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 JAMIE M. CANTRELL,

12 Plaintiff,

13 v.

14 COMMISSIONER OF SOCIAL
15 SECURITY,

16 Defendant.

No. 2:24-CV-0567-DMC

MEMORANDUM OPINION AND ORDER

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18 Plaintiff, who is proceeding pro se,¹ brings this action for judicial review of a final
19 decision of the Commissioner of Social Security under 42 U.S.C. § 405(g). Pursuant to the
20 written consent of all parties, ECF Nos. 7 and 8, this case is before the undersigned as the
21 presiding judge for all purposes, including entry of final judgment. See 28 U.S.C. § 636(c).
22 Pending before the Court are the parties' briefs on the merits, ECF Nos. 11 and 12.

23 The Court reviews the Commissioner's final decision to determine whether it is:
24 (1) based on proper legal standards; and (2) supported by substantial evidence in the record as a
25 whole. See Tackett v. Apfel, 180 F.3d 1094, 1097 (9th Cir. 1999). "Substantial evidence" is
26 more than a mere scintilla, but less than a preponderance. See Saelee v. Chater, 94 F.3d 520, 521

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28 ¹ The Court's prior order incorrectly reflected that Plaintiff is proceeding with retained counsel.

(9th Cir. 1996). It is “. . . such evidence as a reasonable mind might accept as adequate to support a conclusion.” Richardson v. Perales, 402 U.S. 389, 402 (1971). The record as a whole, including both the evidence that supports and detracts from the Commissioner’s conclusion, must be considered and weighed. See Howard v. Heckler, 782 F.2d 1484, 1487 (9th Cir. 1986); Jones v. Heckler, 760 F.2d 993, 995 (9th Cir. 1985). The Court may not affirm the Commissioner’s decision simply by isolating a specific quantum of supporting evidence. See Hammock v. Bowen, 879 F.2d 498, 501 (9th Cir. 1989). If substantial evidence supports the administrative findings, or if there is conflicting evidence supporting a particular finding, the finding of the Commissioner is conclusive. See Sprague v. Bowen, 812 F.2d 1226, 1229-30 (9th Cir. 1987). Therefore, where the evidence is susceptible to more than one rational interpretation, one of which supports the Commissioner’s decision, the decision must be affirmed, see Thomas v. Barnhart, 278 F.3d 947, 954 (9th Cir. 2002), and may be set aside only if an improper legal standard was applied in weighing the evidence, see Burkhardt v. Bowen, 856 F.2d 1335, 1338 (9th Cir. 1988).

For the reasons discussed below, the Commissioner’s final decision is affirmed.

I. THE DISABILITY EVALUATION PROCESS

To achieve uniformity of decisions, the Commissioner employs a five-step sequential evaluation process to determine whether a claimant is disabled. See 20 C.F.R. §§ 404.1520 (a)-(f) and 416.920(a)-(f). The sequential evaluation proceeds as follows:

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| Step 1 | Determination whether the claimant is engaged in substantial gainful activity; if so, the claimant is presumed not disabled and the claim is denied; |
| Step 2 | If the claimant is not engaged in substantial gainful activity, determination whether the claimant has a severe impairment; if not, the claimant is presumed not disabled and the claim is denied; |
| Step 3 | If the claimant has one or more severe impairments, determination whether any such severe impairment meets or medically equals an impairment listed in the regulations; if the claimant has such an impairment, the claimant is presumed disabled and the claim is granted; |

Step 4 If the claimant's impairment is not listed in the regulations, determination whether the impairment prevents the claimant from performing past work in light of the claimant's residual functional capacity; if not, the claimant is presumed not disabled and the claim is denied;

Step 5 If the impairment prevents the claimant from performing past work, determination whether, in light of the claimant's residual functional capacity, the claimant can engage in other types of substantial gainful work that exist in the national economy; if so, the claimant is not disabled and the claim is denied.

See 20 C.F.R. §§ 404.1520 (a)-(f) and 416.920(a)-(f).

To qualify for benefits, the claimant must establish the inability to engage in substantial gainful activity due to a medically determinable physical or mental impairment which has lasted, or can be expected to last, a continuous period of not less than 12 months. See 42 U.S.C. § 1382c(a)(3)(A). The claimant must provide evidence of a physical or mental impairment of such severity the claimant is unable to engage in previous work and cannot, considering the claimant's age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy. See Quang Van Han v. Bower, 882 F.2d 1453, 1456 (9th Cir. 1989). The claimant has the initial burden of proving the existence of a disability. See Terry v. Sullivan, 903 F.2d 1273, 1275 (9th Cir. 1990).

The claimant establishes a prima facie case by showing that a physical or mental impairment prevents the claimant from engaging in previous work. See Gallant v. Heckler, 753 F.2d 1450, 1452 (9th Cir. 1984); 20 C.F.R. §§ 404.1520(f) and 416.920(f). If the claimant establishes a prima facie case, the burden then shifts to the Commissioner to show the claimant can perform other work existing in the national economy. See Burkhart v. Bowen, 856 F.2d 1335, 1340 (9th Cir. 1988); Hoffman v. Heckler, 785 F.2d 1423, 1425 (9th Cir. 1986); Hammock v. Bowen, 867 F.2d 1209, 1212-1213 (9th Cir. 1989).

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II. THE COMMISSIONER'S FINDINGS

Plaintiff applied for social security benefits in July 2015. See CAR 213, 222.² In the application, Plaintiff claims disability began on January 1, 2014. See id. Plaintiff's claim was initially denied. Following denial of reconsideration, Plaintiff requested an administrative hearing, after which Administrative Law Judge (ALJ) Carol A. Eckersen issued a decision on May 31, 2018, finding Plaintiff not disabled. See id. at 16-29. The Appeals Council denied review and, with the assistance of retained counsel, Plaintiff appealed. On February 13, 2020, the undersigned remanded the matter pursuant to the parties' stipulation. See id. at 1107-08. Pursuant to the Court's remand, the Appeals Council assigned the matter to ALJ Eckerson for further proceedings. See id. at 1111-14.

A second hearing was held before the ALJ on November 19, 2020.³ See id. at 960. In a January 27, 2021, decision, the ALJ concluded Plaintiff is not disabled based on the following relevant findings:

1. The claimant has the following severe impairment(s): cervical, thoracic and lumbar degenerative disc disease, status post L5-S1 decompression and fusion, status post C5-6 decompression and fusion, sacroiliac joint dysfunction, mood disorder, and anxiety disorder;
2. The claimant does not have an impairment or combination of impairments that meets or medically equals an impairment listed in the regulations;
3. The claimant has the residual functional capacity to perform light work except as follows: the claimant can frequently climb ramps and stairs and occasionally climb ladders, ropes or scaffolds. She can frequently balance, stoop, kneel, crouch and crawl; she is capable of simple repetitive tasks; she is able to maintain concentration, persistence and pace and adapt to changes consistent with simple repetitive can have occasional interaction with supervisors and co-workers;

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² Citations are to the Certified Administrative Record (CAR) lodged on April 23, 2024, ECF No. 10.

³ At the second administrative hearing, Plaintiff was assisted by non-attorney representative Glenn A. Skinner. See CAR 960.

4. Considering the claimant's age, education, work experience, residual functional capacity, and vocational expert testimony, there are jobs that exist in significant numbers in the national economy that the claimant can perform.

See id. at 963-75.

After the Appeals Council declined further review, Plaintiff filed this second appeal pro se.

III. DISCUSSION

In her opening brief, Plaintiff recounts her medical history and limitations and argues generally that the ALJ's January 27, 2021, determinations relating to her ability to work are incorrect. See generally ECF No. 11. In support of her position, Plaintiff attaches various medical records to her brief. Given Plaintiff's pro se status, the Court has reviewed the ALJ's decision through each step of the sequential analysis.

At the outset, the Court addresses the medical records attached to Plaintiff's brief. Defendant provides the following summary of the attached documents, which Plaintiff does not dispute:

The relevant period in this case was from the date Plaintiff alleged disability, January 1, 2014, through the date of the ALJ's decision, January 27, 2021. . . . The letter from Dr. Ketchum dated February 5, 2024, is well outside the relevant period and states Plaintiff is "functionally disabled," but provides no specific functional limitations. *See* Doc. 11, page 14. . . . The statement from Plaintiff's mother, Abbie Cantrell, is also dated well after the relevant period. Doc. 11, page 25. Ms. Cantrell's statement reiterates statements made by Plaintiff and evaluated by the ALJ. The emergency department notes from December 2023 are also outside the relevant period and relate to complaints of breathing problems with normal objective findings. The diagnosis was acute anxiety and Plaintiff was advised to stop smoking. Doc. 11, pages 36-44. . . .

With regard to the one record that was from the relevant period and not included in the record, Plaintiff has not established good cause for not including the evidence in the record before the ALJ. . . . Plaintiff has not explained why the x-ray of her feet from October 21, 2021, was not included in the records before the ALJ. As Plaintiff points out, the x-rays show pes planus, also known as flatfeet. Doc. 11, page 23. . . . The remainder of the evidence attached to her brief was already part of the administrative record. The prescriptions for crutches and a cane attached to her brief are already in the record (AR 1062-63). The operative report from February 2019 is also already in the record (AR 1494). Additionally, the ALJ specifically cited the record in the decision (AR 969). Similarly, the operative notes from August 2015 are included in the record (AR 676), and the ALJ discussed Plaintiff's August 2015 surgery (AR 968). Though

1 it is dated after the relevant period, the lumbar MRI from January 2022 is
2 also already in the record (AR 1065). . . .

3 CAR 12, pgs. 15-16.

4 A case may be remanded to the agency for the consideration of new evidence if
5 the evidence is material and good cause exists for the absence of the evidence from the prior
6 record. See Sanchez v. Secretary of Health and Human Services, 812 F.2d 509, 511-12 (9th Cir.
7 1987) (citing 42 U.S.C. § 405(g)). In order for new evidence to be “material,” the Court must
8 find that, had the agency considered this evidence, the decision might have been different. See
9 Clem v. Sullivan, 894 F.2d 328, 332 (9th Cir. 1990). The Court need only find a reasonable
10 possibility that the new evidence would have changed the outcome of the case. See Booz v.
11 Secretary of Health and Human Services, 734 F.2d 1378, 1380-81 (9th Cir. 1984). The new
12 evidence, however, must be probative of the claimant’s condition as it existed at or before the
13 time of the disability hearing. See Sanchez 812 F.2d at 511 (citing 42 U.S.C. § 416(i)(2)(G)). In
14 Sanchez, the court concluded that the new evidence in question was not material because it
15 indicated “at most, mental deterioration after the hearing, which would be material to a new
16 application, but not probative of his condition at the hearing.” Id. at 512 (citing Ward v.
17 Schweiker, 686 F.2d 762, 765-66 (9th Cir. 1982)).

18 The Court finds that a remand is not warranted based on the records attached to
19 Plaintiff’s brief. First, as to the letter from Dr. Ketchum, the statement from Plaintiff’s mother,
20 and emergency department notes, these records are all dated after the relevant time period (from
21 the alleged onset date of January 1, 2014, through the date of the hearing decision of January 27,
22 2021). These records are, therefore, not probative. See Sanchez 812 F.2d at 511; see also
23 Blansette v. Berryhill, 721 F.App’x 715, 717 (9th Cir. 2018). Second, as to the October 2021 x-
24 ray of Plaintiff’s foot, Plaintiff has not established good cause by way of providing any
25 explanation for its absence from the record. To establish good cause, the plaintiff must explain
26 why the evidence was not available earlier. See Mayes v. Massanari, 276 F.3d 453, 463 (9th Cir.
27 2001). Plaintiff has not done so here. Finally, as Defendant notes, the remainder of the records
28 attached to Plaintiff’s brief are already included in the record before the ALJ and this Court.

1 The Court next addresses the ALJ's analysis throughout the five-step sequential
2 evaluation process.

3 **A. Steps 1-3**

4 At Step 1, the ALJ determined that Plaintiff was not engaged in substantial gainful
5 activity since the alleged onset date of January 1, 2014. See CAR 963. At Step 2, the ALJ
6 determined that Plaintiff has the following severe impairments: cervical, thoracic and lumbar
7 degenerative disc disease, status post L5-S1 decompression and fusion, status post C5-6
8 decompression and fusion, sacroiliac joint dysfunction, mood disorder and anxiety disorder. See
9 id. At Step 3, the ALJ found that Plaintiff's impairments, singly or in combination, do not meet
10 or medically equal an impairment or impairments listed in the regulations. See id. at 964.

11 These determinations are not in dispute.

12 **B. Step 4 – Residual Functional Capacity**

13 Residual functional capacity is the most a person “can still do despite [the
14 individual's] limitations.” 20 C.F.R. §§ 404.1545(a), 416.945(a) (2012); see also Valencia v.
15 Heckler, 751 F.2d 1082, 1085 (9th Cir. 1985) (residual functional capacity reflects current
16 “physical and mental capabilities”). Thus, residual functional capacity describes a person's
17 exertional capabilities in light of his or her limitations.⁴ An ALJ's RFC finding must include all
18 of the limitations the ALJ has found to be supported by the evidence of record. See SSR 85-15.

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21 ⁴ Exertional capabilities are the primary strength activities of sitting, standing,
22 walking, lifting, carrying, pushing, or pulling and are generally defined in terms of ability to
23 perform sedentary, light, medium, heavy, or very heavy work. See 20 C.F.R., Part 404, Subpart
24 P, Appendix 2, § 200.00(a). “Sedentary work” involves lifting no more than 10 pounds at a time
25 and occasionally lifting or carrying articles like docket files, ledgers, and small tools. See 20
26 C.F.R. §§ 404.1567(a) and 416.967(a). “Light work” involves lifting no more than 20 pounds at a time
27 with frequent lifting or carrying of objects weighing up to 10 pounds. See 20 C.F.R. §§
28 404.1567(b) and 416.967(b). “Medium work” involves lifting no more than 50 pounds at a time
with frequent lifting or carrying of objects weighing up to 25 pounds. See 20 C.F.R. §§
404.1567(c) and 416.967(c). “Heavy work” involves lifting no more than 100 pounds at a time
with frequent lifting or carrying of objects weighing up to 50 pounds. See 20 C.F.R. §§
404.1567(d) and 416.967(d). “Very heavy work” involves lifting objects weighing more than 100
pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. See 20
C.F.R. §§ 404.1567(e) and 416.967(e).

1 In determining residual functional capacity, the ALJ must assess what the plaintiff
 2 can still do in light of both physical and mental limitations. See 20 C.F.R. §§ 404.1545(a),
 3 416.945(a) (2003); see also Valencia v. Heckler, 751 F.2d 1082, 1085 (9th Cir. 1985) (residual
 4 functional capacity reflects current “physical and mental capabilities”). Where, as here, there is a
 5 colorable claim of mental impairment, the regulations require the ALJ to follow a special
 6 procedure. See 20 C.F.R. §§ 404.1520a(a), 416.920a(a). The ALJ is required to record pertinent
 7 findings and rate the degree of functional loss. See 20 C.F.R. §§ 404.1520a(b), 416.920a(b).

8 In determining Plaintiff’s residual functional capacity at Step 4, the ALJ
 9 considered the following evidence of record: (1) Plaintiff’s subjective statements and testimony;
 10 (2) the objective medical evidence; (3) the opinion evidence; and (4) statements from Janice R.
 11 Nickell as well as statements from Steven Cantrell, Plaintiff’s father. See CAR 966-73. Upon
 12 consideration of this evidence, the ALJ determined that Plaintiff has the residual functional
 13 capacity to perform light work with the limitations outlined above. See id.

14 1. Objective Evidence and Plaintiff’s Subjective Statements and Testimony

15 The Commissioner determines the weight to be given to a claimant’s own
 16 statements and testimony, and the court defers to the Commissioner’s discretion if the
 17 Commissioner used the proper process and provided proper reasons. See Saelee v. Chater, 94
 18 F.3d 520, 522 (9th Cir. 1996). An explicit finding must be supported by specific, cogent reasons.
 19 See Rashad v. Sullivan, 903 F.2d 1229, 1231 (9th Cir. 1990). General findings are insufficient.
 20 See Lester v. Chater, 81 F.3d 821, 834 (9th Cir. 1995). Rather, the Commissioner must identify
 21 what testimony is not afforded weight and what evidence undermines the testimony. See id.
 22 Moreover, unless there is affirmative evidence in the record of malingering, the Commissioner’s
 23 reasons for rejecting testimony as not credible must be “clear and convincing.” See id.; see also
 24 Carmickle v. Commissioner, 533 F.3d 1155, 1160 (9th Cir. 2008) (citing Lingenfelter v Astrue,
 25 504 F.3d 1028, 1936 (9th Cir. 2007), and Gregor v. Barnhart, 464 F.3d 968, 972 (9th Cir. 2006)).

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1 If there is objective medical evidence of an underlying impairment, the
2 Commissioner may not discredit a claimant's testimony as to the severity of symptoms merely
3 because they are unsupported by objective medical evidence. See Bunnell v. Sullivan, 947 F.2d
4 341, 347-48 (9th Cir. 1991) (en banc). As the Ninth Circuit explained in Smolen v. Chater:

5 The claimant need not produce objective medical evidence of the
6 [symptom] itself, or the severity thereof. Nor must the claimant produce
7 objective medical evidence of the causal relationship between the
8 medically determinable impairment and the symptom. By requiring that
9 the medical impairment "could reasonably be expected to produce" pain or
10 another symptom, the Cotton test requires only that the causal relationship
11 be a reasonable inference, not a medically proven phenomenon.

80 F.3d 1273, 1282 (9th Cir. 1996) (referring to the test established in
Cotton v. Bowen, 799 F.2d 1403 (9th Cir. 1986)).

11 The Commissioner may, however, consider the nature of the symptoms alleged,
12 including aggravating factors, medication, treatment, and functional restrictions. See Bunnell,
13 947 F.2d at 345-47. In weighing a claimant's statements and testimony, the Commissioner may
14 also consider: (1) the claimant's reputation for truthfulness, prior inconsistent statements, or other
15 inconsistent testimony; (2) unexplained or inadequately explained failure to seek treatment or to
16 follow a prescribed course of treatment; (3) the claimant's daily activities; (4) work records; and
17 (5) physician and third-party testimony about the nature, severity, and effect of symptoms. See
18 Smolen, 80 F.3d at 1284 (citations omitted). It is also appropriate to consider whether the
19 claimant cooperated during physical examinations or provided conflicting statements concerning
20 drug and/or alcohol use. See Thomas v. Barnhart, 278 F.3d 947, 958-59 (9th Cir. 2002). If the
21 claimant testifies as to symptoms greater than would normally be produced by a given
22 impairment, the ALJ may disbelieve that testimony provided specific findings are made. See
23 Carmickle, 533 F.3d at 1161 (citing Swenson v. Sullivan, 876 F.2d 683, 687 (9th Cir. 1989)).

24 Regarding reliance on a claimant's daily activities to discount testimony of
25 disabling pain, the Social Security Act does not require that disability claimants be utterly
26 incapacitated. See Fair v. Bowen, 885 F.2d 597, 602 (9th Cir. 1989). The Ninth Circuit has
27 repeatedly held that the "... mere fact that a plaintiff has carried out certain daily activities ...
28 does not ... [necessarily] detract from her credibility as to her overall disability." See Orn v.

1 Astrue, 495 F.3d 625, 639 (9th Cir. 2007) (quoting Vertigan v. Heller, 260 F.3d 1044, 1050 (9th
 2 Cir. 2001)); see also Howard v. Heckler, 782 F.2d 1484, 1488 (9th Cir. 1986) (observing that a
 3 claim of pain-induced disability is not necessarily gainsaid by a capacity to engage in periodic
 4 restricted travel); Gallant v. Heckler, 753 F.2d 1450, 1453 (9th Cir. 1984) (concluding that the
 5 claimant was entitled to benefits based on constant leg and back pain despite the claimant's
 6 ability to cook meals and wash dishes); Fair, 885 F.2d at 603 (observing that "many home
 7 activities are not easily transferable to what may be the more grueling environment of the
 8 workplace, where it might be impossible to periodically rest or take medication"). Daily
 9 activities must be such that they show that the claimant is "... able to spend a substantial part of
 10 his day engaged in pursuits involving the performance of physical functions that are transferable
 11 to a work setting." Fair, 885 F.2d at 603. The ALJ must make specific findings in this regard
 12 before relying on daily activities to discount a claimant's pain testimony. See Burch v. Barnhart,
 13 400 F.3d 676, 681 (9th Cir. 2005).

14 At Step 4, the ALJ considered Plaintiff's subjective statements and testimony as
 15 part of determining Plaintiff's residual functional capacity. See CAR 967-71. The ALJ
 16 summarized Plaintiff's testimony and statements as follows:

17 The claimant alleges an inability to work due to her mental and
 18 psychological symptoms (Ex. 2E). The claimant reported that her back
 19 pain has been present all of her life and that her pain is a burning stabbing
 20 shooting pain that goes from her lower buttocks to the middle of her back
 21 and then starts in her neck again as an ache (Ex. 7E). In addition, the
 22 claimant reported that she has to lay down to relieve her neck pain (Id.).
 23 Moreover, the claimant reported that when she walks she takes short baby
 24 steps and that she feels unstable (Id.). Furthermore, the claimant reported
 25 pain in bending over to clean herself and that she has difficulty laying
 26 down in the bathtub (Hearing Testimony). The claimant also reported that
 due to her back pain she takes her time getting dressed (Hearing
 Testimony). While the claimant reported that she puts her shirt on slowly
 due to her neck and lower back, she also reported that she is able pull her
 shirt over her head (Hearing Testimony). In addition, the claimant reported
 that she is only able to sit for five to ten minutes before needing to adjust
 her position and she can stand for five to twenty minutes before having to
 take a break. Moreover, the claimant reported that walking for twenty
 minutes results in two days of recovery (Id.). Recently, the claimant
 testified that she is more limited than previously reported. The claimant

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1 estimated she is able to sit or stand only 10 minutes. She stated she is
2 severely limited by mental and physical impairments (Hearing
Testimony).

3 CAR 967.

4 The ALJ first concluded that the “objective findings in this case fail to provide
5 strong support for the claimant’s allegations of disabling symptoms and limitations.” Id. The
6 ALJ then summarized the objective evidence of record. See id. at 967-69. This summary is not
7 repeated here. The ALJ also considered Plaintiff’s activities of daily living as noted in
8 documentation from June 3, 2020, incident to an examination for eligibility for in-home support
9 services. See id. at 970. Specifically, the ALJ noted:

10 On June 3, 2020, the claimant was examined for in home support services.
11 Complaints included difficulty with activities of daily living. The claimant
12 noted that she was able to care for her 6-year-old child, including
13 preparing meals, helping with feeding and cleaning her home (Ex.
28F/14). An examination revealed decreased sensory testing, but normal
motor examination. Physicians indicated the claimant qualified for
services (Ex. 28F/16).

14 CAR 970.

15 The ALJ reached the following conclusions regarding Plaintiff’s subjective
16 statements and testimony:

17 After careful consideration of the evidence, I find that the claimant’s
18 medically determinable impairments could reasonably be expected to
19 cause the alleged symptoms; however, the claimant’s statements
20 concerning the intensity, persistence and limiting effects of these
symptoms are not entirely consistent with the medical evidence and other
evidence in the record for the reasons explained in this decision.

21 While the claimant alleged that she could only lift five pounds of weight,
22 she also reported that she could lift and carry her forty-pound child (Ex.
7E; 7F/44). The examiner noted that the claimant was able to do four deep
23 knee squats to lift the child, complete a forward bend without using her
knees to lift the child, and she was able to hold the child and rotate him
24 from hip to hip several times (Id.). The claimant admitted that she was
able to care for her 6-year-old child, including preparing meals, helping
25 with feeding and cleaning her home (Ex. 28F/14). As such, the claimant
demonstrated that she could perform postural movements. While the
claimant reported that it takes two days to recover after walking for twenty
26 minutes, she has also informed her medical provider that she would like to
start jogging again (Ex. 8F/37). In addition, while the claimant presented
27 an antalgic gait (Ex. 22F/134, 136), the majority of her examinations
found a normal gait and five out five muscle strength (Ex. 3F/2, 5, 11;
28 6F/4; 7F/45, 48, 51, 57, 60, 63, 66, 69, 81, 90; 8F/2, 5, 8, 11, 39, 44, 47,
49; 10F/2; 15F/8, 11, 13, 16, 19, 22, 25, 28, 21F/4, 8, 16). In 2019,

1 postsurgical records showed the claimant was feeling “really good.” An
2 examination showed 5/5 bilateral lower extremity strength and no back
3 pain with motion. Physicians discharged the claimant from therapy, and
4 found she had met all goals (Ex. 26F/69).

5 The claimant reported experiencing chronic pain due to her medical
6 impairments and she has also reported that her prescription of Gabapentin
7 has helped her symptoms such that she was able to quite using marijuana
8 for pain relief (Hearing Testimony).

9 The claimant has some limitation from her mental impairments though her
10 mental impairments do not limit her more than the above residual
11 functional capacity. The claimant has been found to be alert and oriented
12 to person, place, and time (Ex. 3F/2, 5, 11; 6F/3; 7F/2, 5, 8, 11, 14, 17, 26,
13 35, 38, 41, 42, 69, 90; 8F/14, 20, 26, 29, 35, 43; 13F/2; 28F/12, 24, 31, 38,
14 46). Moreover, the claimant's examiners have found her to have normal
15 thought and perception (Ex. 7F/5, 20, 29; 28F/50, 57, 61). The claimant's
16 medical providers have found her to be cooperative (Ex. 6F/3; 8F/43;
17 13F/2; 21F/4, 15) and to have appropriate mood and affect (Ex. 28F/46,
18 50, 54, 61). Moreover, the claimant's medical providers evaluated her
19 memory to be normal (Ex. 14F/2, 5, 8, 11, 14, 17, 20; 21F/13, 137;
20 28F/57). The claimant was able to perform serial threes and she was
21 able to spell "world" forwards and backwards with one error (Ex. 13F).

22 CAR 970-71.

23 Here, the ALJ properly considered Plaintiff's statements and testimony in the
24 context of the objective medical evidence. As the ALJ noted, most evaluations found that
25 Plaintiff's gait and muscle strength were normal. In 2019, Plaintiff reported that she was feeling
26 “really good” and examination at that time showed normal bilateral lower extremity strength and
27 no back pain with motion. Plaintiff was discharged from physical therapy upon completing all
28 her goals. As to Plaintiff's complaints of chronic pain, the objective evidence indicates that
Plaintiff reported that prescription medical was helping and that she was able to stop using
marijuana for pain relief. As to mental limitations, the objective findings show that Plaintiff has
been consistently found to be alert and oriented; she has demonstrated normal thought and
perception; Plaintiff has been found to be cooperative with appropriate mood and affect; and
Plaintiff's memory has been found to be normal. The ALJ allowed for mental limitations by
restricting Plaintiff to simple repetitive tasks with only occasional interaction with co-workers
and supervisors. The Court finds that the ALJ's assessment, that Plaintiff's testimony and
statements are inconsistent with the objective evidence, is supported by the record.

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1 The ALJ did not consider the objective evidence as the only factor guiding the
2 analysis of Plaintiff's subjective statements and testimony. The ALJ also considered Plaintiff's
3 activities of daily living. In doing so, the ALJ cited Exhibits 7E, 7F, 8F, and 28F. See CAR 970.
4 Notably, the ALJ identified an inconsistency in Plaintiff's statements. In a function report
5 completed on March 16, 2016, Plaintiff stated that she could only lift five pounds. See CAR 285
6 (Exhibit 7E). However, at a December 10, 2014, visit with her treating medical provider, which
7 Plaintiff attended with her minor son who weighed 40 pounds at the time, Plaintiff stated that she
8 is consistently lifting him, holding him, and fastening him in the car seat. See CAR 458 (Exhibit
9 7f, pg. 44). During the examination, Plaintiff was able to perform deep-knee squats to pick up her
10 son. See id. Plaintiff was also able to lift her son using forward bends without using her knees.
11 See id. When Plaintiff's son cried, Plaintiff was observed holding him and rotating him from hip
12 to hip several times. See id. In June 2020, Plaintiff was seen at the Shasta Community Health
13 Center and reported that she was able to care for her six-year-old son. See CAR 1544 (Exhibit
14 28F, pg. 14).

15 While Plaintiff states that activities of daily living are somewhat limited due to
16 chronic back pain and such activities may not necessarily show an ability to perform competitive
17 work on a full-time basis, the ALJ nonetheless appropriately noted inconsistencies in Plaintiff's
18 statements, specifically regarding care of her child. Such inconsistencies provided a legal basis
19 supported by substantial evidence for the ALJ's conclusion regarding Plaintiff's statements and
20 testimony as a whole. See Smolen, 80 F.3d at 1284. Because the ALJ provided a valid rationale
21 for discounting Plaintiff's subjective statements and testimony, and because the rationale is
22 supported by evidence in the record, the Court finds no error with respect to the ALJ's analysis of
23 Plaintiff's subjective statements and testimony.

24 2. Opinion Evidence

25 "The ALJ must consider all medical opinion evidence." Tommasetti v. Astrue,
26 533 F.3d 1035, 1041 (9th Cir. 2008) (citing 20 C.F.R. § 404.1527(b)). The ALJ errs by not
27 explicitly rejecting a medical opinion. See Garrison v. Colvin, 759 F.3d 995, 1012 (9th Cir.
28 2014). The ALJ also errs by failing to set forth sufficient reasons for crediting one medical

1 opinion over another. See id.

2 Under the regulations, only “licensed physicians and certain qualified specialists”
3 are considered acceptable medical sources. 20 C.F.R. § 404.1513(a); see also Molina v. Astrue,
4 674 F.3d 1104, 1111 (9th Cir. 2012). Where the acceptable medical source opinion is based on
5 an examination, the “. . . physician’s opinion alone constitutes substantial evidence, because it
6 rests on his own independent examination of the claimant.” Tonapetyan v. Halter, 242 F.3d 1144,
7 1149 (9th Cir. 2001). The opinions of non-examining professionals may also constitute
8 substantial evidence when the opinions are consistent with independent clinical findings or other
9 evidence in the record. See Thomas v. Barnhart, 278 F.3d 947, 957 (9th Cir. 2002). Social
10 workers are not considered an acceptable medical source. See Turner v. Comm’r of Soc. Sec.
11 Admin., 613 F.3d 1217, 1223-24 (9th Cir. 2010). Nurse practitioners and physician assistants
12 also are not acceptable medical sources. See Dale v. Colvin, 823 F.3d 941, 943 (9th Cir. 2016).
13 Opinions from “other sources” such as nurse practitioners, physician assistants, and social
14 workers may be discounted provided the ALJ provides reasons germane to each source for doing
15 so. See Popa v. Berryhill, 872 F.3d 901, 906 (9th Cir. 2017), but see Revels v. Berryhill, 874
16 F.3d 648, 655 (9th Cir. 2017) (quoting 20 C.F.R. § 404.1527(f)(1) and describing circumstance
17 when opinions from “other sources” may be considered acceptable medical opinions).

18 For all claims, as here, filed before March 27, 2017, ALJs are bound by
19 regulations and case law requiring ALJs to give physicians’ opinions different weights, depending
20 on the relationship between the physician and the claimant. See 20 C.F.R §§ 404.1527(c) &
21 416.920(c); Garrison v. Colvin, 759 F.3d 995, 1017-18 (9th Cir. 2014). This rule is known as the
22 treating physician rule. The weight given to medical opinions depends in part on whether they
23 are proffered by treating, examining, or non-examining professionals. See Lester v. Chater, 81
24 F.3d 821, 830-31 (9th Cir. 1995). Ordinarily, more weight is given to the opinion of a treating
25 professional, who has a greater opportunity to know and observe the patient as an individual, than
26 the opinion of a non-treating professional. See id.; Smolen v. Chater, 80 F.3d 1273, 1285 (9th
27 Cir. 1996); Winans v. Bowen, 853 F.2d 643, 647 (9th Cir. 1987). The least weight is given to the
28 opinion of a non-examining professional. See Pitzer v. Sullivan, 908 F.2d 502, 506 & n.4 (9th

1 Cir. 1990).

2 In addition to considering its source, to evaluate whether the Commissioner
3 properly rejected a medical opinion in a claim filed before March 27, 2017, the Court considers
4 whether: (1) contradictory opinions are in the record; and (2) clinical findings support the
5 opinions. The Commissioner may reject an uncontradicted opinion of a treating or examining
6 medical professional only for “clear and convincing” reasons supported by substantial evidence in
7 the record. See Lester, 81 F.3d at 831. While a treating professional’s opinion generally is
8 accorded superior weight, if it is contradicted by an examining professional’s opinion which is
9 supported by different independent clinical findings, the Commissioner may resolve the conflict.
10 See Andrews v. Shalala, 53 F.3d 1035, 1041 (9th Cir. 1995).

11 A contradicted opinion of a treating or examining professional may be rejected
12 only for “specific and legitimate” reasons supported by substantial evidence. See Lester, 81 F.3d
13 at 830. This test is met if the Commissioner sets out a detailed and thorough summary of the
14 facts and conflicting clinical evidence, states her interpretation of the evidence, and makes a
15 finding. See Magallanes v. Bowen, 881 F.2d 747, 751-55 (9th Cir. 1989). Absent specific and
16 legitimate reasons, the Commissioner must defer to the opinion of a treating or examining
17 professional. See Lester, 81 F.3d at 830-31. The opinion of a non-examining professional,
18 without other evidence, is insufficient to reject the opinion of a treating or examining
19 professional. See id. at 831. In any event, the Commissioner need not give weight to any
20 conclusory opinion supported by minimal clinical findings. See Meanel v. Apfel, 172 F.3d 1111,
21 1113 (9th Cir. 1999) (rejecting treating physician’s conclusory, minimally supported opinion); see
22 also Magallanes, 881 F.2d at 751.

23 The ALJ considered various medical opinions of record at Step 4 in determining
24 Plaintiff’s residual functional capacity. See CAR 971-73. Specifically, the ALJ discussed
25 opinions from the following sources: (1) psychiatric consultative examiner Chester Sunde,
26 Psy.D.; (2) state agency medical consultant K. Rowlands, M.D.; (3) state agency medical
27 consultant G. Lee, M.D.; (4) state agency medical consultant L. Colsky, M.D.; (5) and testifying
28 medical expert Alfred Jonas, M.D. See id. The ALJ gave “great weight” to the opinions of Drs.

1 Sunde and Jonas regarding Plaintiff's mental and physical limitations and formulated the residual
 2 functional capacity finding around these opinions. See id. Notably, as to Plaintiff's mental
 3 impairments, Dr. Jonas applied the special procedure required under the regulations (the
 4 "paragraph B" criteria) to record pertinent findings and rate the degree of functional loss. See id.
 5 at 972-73.

6 The ALJ, however, gave only "some weight" to the other doctors' opinions. See
 7 id. As to Drs. Rowlands and Lee, the ALJ rejected the doctors' opinion that Plaintiff can only sit
 8 or stand for two hours in an eight-hour day. See id. As to Dr. Colsky, the ALJ rejected the
 9 doctor's opinion that Plaintiff could have no public contact. See id. The Court focuses the
 10 remainder of the discussion regarding medical opinions on those opinions which were not
 11 accepted to determine if the ALJ provided legally sufficient reasons for doing so, and whether
 12 those reasons are supported by substantial evidence.

13 i. Drs. Rowlands and Lee

14 As to Drs. Rowlands and Lee, the ALJ stated:

15 At the request of the agency, state agency medical consultant K.
 16 Rowlands, M.D., opined that the claimant could perform work at less than
 17 the light exertional level in that the claimant could sit for two hours out of
 18 an eight-hour day (Ex. 1A; 2A). Dr. Rowlands also opined that the
 19 claimant could occasionally climb ladders, ropes, scaffolds, balance, and
 20 stoop, kneel, crouch, or crawl (Id.). In addition, state agency medical
 21 consultant G. Lee, M.D., opined that the claimant could perform work at
 22 less than the light exertional level in that the claimant could stand for two
 23 hours out of an eight-hour day (Ex. 5A; 6A). Dr. Lee also opined that the
 24 claimant could frequently climb ramps, stairs, or balance (Id.). In addition,
 25 Dr. Lee opined that the claimant could occasionally climb ladders, ropes,
 26 or scaffolds, stoop, kneel, crouch, or crawl (Id.). I assign some weight to
 27 the opinions of Dr. Rowland and Dr. Lee. While Dr. Rowland and Dr. Lee
 28 as state agency medical consultants possess advanced knowledge of
 agency rules and regulations, the opinions that the claimant could sit for
 two hours out of an eight-hour day or stand for two hours out of an eight-
 hour day are not supported by the record. Specifically, while the claimant
 presented an antalgic gait (Ex. 22F/134, 136), the majority of her
 examinations found a normal gait and five out five muscle strength (Ex.
 3F/2, 5, 11; 6F/4; 7F/45, 48, 51, 57, 60, 63, 66, 69, 81, 90; 8F/2, 5, 8, 11,
 39, 44, 47, 49; 10F/2; 15F/8, 11, 13, 16, 19, 22, 25, 28, 21F/4, 8, 16).
 Moreover, the claimant's medical examiners noted that the claimant was
 able to do four deep knee squats to lift her child, complete a forward bend
 without using her knees to lift her child, and she was able to hold the child
 and rotate him from hip to hip several times (Ex. 7F/44).

CAR 972.

1 As non-examining professionals, and consistent with the former regulations which
2 govern this case, the ALJ appropriately gave the opinions of Drs. Rowland and Lee less weight
3 than the opinions of examining professionals. Additionally, the ALJ provided a valid reason for
4 doing so, citing inconsistency between the doctors' opinions and the objective medical evidence.
5 On this record, the Court cannot find any error in the ALJ's assessment of the opinions of Drs.
6 Rowland or Lee.

7 ii. Dr. Colsky

8 As to Dr. Colsky, the ALJ stated:

9 The state agency medical consultant L. Colsky, M.D., opined that the
10 claimant is functional in her activities of daily living and she is able to
11 interact with others in a satisfactory manner (Ex. 5A; 6A). Dr. Colsky
12 opined that the claimant has the capacity to maintain concentration,
13 persistence and pace to complete one to two step tasks over the course of a
14 typical eight-workday five days a week (Id.). Dr. Colsky also opined that
15 the claimant is not expected to decompensate in a minimally stressful
16 work environment (Id.). Dr. Colsky recommended that due to depression,
17 she should avoid contact with the general public (Id.). I assign some
18 weight to the opinions of Dr. Colsky. Dr. Colsky, as a state agency
19 medical consultant, possesses advanced knowledge of agency rules and
20 regulations and the record supports that the claimant is capable of
21 occasional superficial interaction with the public and frequent interaction
22 with co-workers or supervisors. I have considered that the claimant's
23 medical providers have noted that the claimant has become hostile and
24 yelled at her medical staff (Ex. 21F/10; 15F/9, 33, 34, 35). I assign great
25 weight to the rest of Dr. Colsky's opinion as the record supports it.
26 Specifically, the claimant was able to perform serial threes and she was
27 able to spell "world" forwards and backwards with one error (Ex. 13F). In
28 addition, the claimant reported that she is able to care for her children who
live with her (Ex. 5E). Moreover, the claimant reported that part of her
normal routine was to ensure that her children brushed their teeth and that
they were dressed for bed (Id.). Furthermore, the claimant reported that
she is able to plan meals for the week and that she ensures that her meal
plan prevents food from expiring (Hearing Testimony).

ECF No. 972.

As with Drs. Rowland and Lee, Dr. Colsky is a non-examining professional and,
under the applicable regulations, the ALJ appropriately gave the doctor's opinions less weight
than was given to those of examining professionals. Moreover, the ALJ cited evidence of record
in support of the conclusion that Plaintiff is not as socially limited as opined by Dr. Colsky in
terms of dealing with the general public in a work setting. Specifically, while Dr. Colsky
recommended no public interaction due to Plaintiff's depression, the ALJ cited evidence of record

from Dr. Sunde, who examined Plaintiff, indicating that Plaintiff has less-than-severe impairment in her ability to interact with supervisors, co-workers, and the public. Under the applicable regulations, the ALJ appropriately gave more weight to the opinion of Dr. Sunde, who examined Plaintiff and less weight to the opinion of Dr. Colsky, who did not. See Lester, 81 F.3d at 830-31; Smolen, 80 F.3d at 1285; Winans, 853 F.2d at 647; Pitzer, 908 F.2d at 506 & n.4.

3. Lay Witness Evidence

In addition to the objective evidence, Plaintiff's subjective statements and testimony, and the opinion evidence, the ALJ also considered third-party statements from Mr. Cantrell and Ms. Nickell. See CAR 973. The ALJ's evaluation of each is discussed below.

In determining whether a claimant is disabled, an ALJ generally must consider third-party lay witness testimony concerning a claimant's ability to work. See Dodrill v. Shalala, 12 F.3d 915, 919 (9th Cir. 1993); 20 C.F.R. §§ 404.1513(d)(4) & (e), 416.913(d)(4) & (e). Indeed, "lay testimony as to a claimant's symptoms or how an impairment affects ability to work is competent evidence . . . and therefore cannot be disregarded without comment." See Nguyen v. Chater, 100 F.3d 1462, 1467 (9th Cir. 1996). Consequently, for disability claims filed, as here, before March 27, 2017,⁵ "[i]f the ALJ wishes to discount the testimony of lay witnesses, he must give reasons that are germane to each witness." Dodrill, 12 F.3d at 919. When rejecting third party statements which are similar in nature to the statements of plaintiff, the ALJ may cite the same reasons used by the ALJ in rejecting the plaintiff's statement. See Valentine v. Commissioner Soc. Sec. Admin., 574 F.3d 685, 694 (9th Cir. 2009) (approving rejection of a third-party family member's testimony, which was similar to the claimant's, for the same reasons

⁵ **Error! Main Document Only.** The new regulatory framework, which applies to claims filed after March 27, 2017, identifies five categories of evidence: (1) objective evidence; (2) medical opinions; (3) "other" medical evidence; (4) evidence from nonmedical sources; and (5) prior administrative medical findings. 20 C.F.R. § 416.913(a)(1)–(5). With respect to evidence from nonmedical sources—the category under which lay testimony falls—the revised regulations expressly provide that the agency is "not required to articulate how we considered evidence from nonmedical sources using the requirements [set forth] in paragraphs (a) through (c) in this section." 20 C.F.R. § 416.920c(d). Thus, the revised regulations distinguish between evidence the ALJ is required to "consider" and evidence that requires the ALJ to "articulate" how the evidence was considered. Based on a plain reading of the revised regulations, the new regulatory framework requires an ALJ to *consider* lay testimony but does not necessarily require the ALJ to articulate *how* it was considered.

1 given for rejection of the claimant's complaints).

2 As to statements from Mr. Cantrell and Ms. Nickell, the ALJ stated:
 3 Steven J. Cantrell, the claimant's father submitted a third party statement
 4 dated March 18, 2016 (Ex. 8E). He corroborated the claimant's allegations
 5 that she can lift up to five pounds and that the claimant has difficulty
 6 squatting, bending, standing, reaching, kneeling, climbing stairs, using
 7 hands, and completing tasks (Id.). While Mr. Cantrell's statements may be
 8 sincere and well meaning, rephrasing or reassertion of the claimant's own
 9 allegation, in a different format is not a basis for a finding of disability.
 10 For the same reasons I find the claimant's allegations of disability are not
 11 consistent with the record, so too are the allegations made by Mr. Cantrell
 12 given little weight. I acknowledge the medical record demonstrates the
 13 claimant does have some physical and mental workplace limitations.
 14 Accordingly, I have accounted for these limitations in the above residual
 15 functional capacity.

16 Janice R. Nickell, completed a statement received August 31, 2020. She
 17 indicated that she assisted the claimant with completion of her application
 18 due to an inability to sit, write or stand (due to back pain) (Ex. 16E). I give
 19 this opinion little weight. It is ambiguous, fails to provide specific
 20 limitations and fails to provide objective evidence to substantiate the
 21 allegations. Further, it is inconsistent with objective evidence, including
 22 the claimant's own admissions that she is capable of caring for her
 23 children (Ex. 28F/14).

24 CAR 973.

25 The Court finds no error in the ALJ's analysis of the lay witness statements in this
 26 case. Under the regulations governing this case, the ALJ was required to provide reasons
 27 germane to each lay witness for discounting third-party evidence. The ALJ did so here. As to
 28 both witnesses, the ALJ appropriately noted that his statements were largely the same as those
 provided by Plaintiff and were discounted for the same reasons (discussed above). See Valentine,
 574 F.3d at 694. As to Ms. Nickell in particular, the additionally ALJ noted that the statement
 was ambiguous and failed to provide much by way of specific detail.

29 C. Step 5 – Vocational Assessment

30 The Medical-Vocational Guidelines (Grids) provide a uniform conclusion about
 31 disability for various combinations of age, education, previous work experience, and residual
 32 functional capacity. The Grids allow the Commissioner to streamline the administrative process
 33 and encourage uniform treatment of claims based on the number of jobs in the national economy
 34 for any given category of residual functioning capacity. See Heckler v. Campbell, 461 U.S. 458,
 35 460-62 (1983) (discussing creation and purpose of the Grids).

1 The Commissioner may apply the Grids in lieu of taking the testimony of a
2 vocational expert only when the Grids accurately and completely describe the claimant's abilities
3 and limitations. See Jones v. Heckler, 760 F.2d 993, 998 (9th Cir. 1985); see also Heckler v.
4 Campbell, 461 U.S. 458, 462 n.5 (1983). Thus, the Commissioner generally may not rely on the
5 Grids if a claimant suffers from non-exertional limitations because the Grids are based on
6 exertional strength factors only. See 20 C.F.R., Part 404, Subpart P, Appendix 2, § 200.00(b). "If
7 a claimant has an impairment that limits his or her ability to work without directly affecting his
8 or her strength, the claimant is said to have non-exertional . . . limitations that are not covered by
9 the Grids." Penny v. Sulliacvan, 2 F.3d 953, 958 (9th Cir. 1993) (citing 20 C.F.R., Part 404,
10 Subpart P, Appendix 2, § 200.00(d), (e)). The Commissioner may, however, rely on the Grids
11 even when a claimant has combined exertional and non-exertional limitations, if non-exertional
12 limitations do not impact the claimant's exertional capabilities. See Bates v. Sullivan, 894 F.2d
13 1059, 1063 (9th Cir. 1990); Polny v. Bowen, 864 F.2d 661, 663-64 (9th Cir. 1988).

14 In cases where the Grids are not fully applicable, the ALJ may meet his burden
15 under Step 5 of the sequential analysis by propounding to a vocational expert hypothetical
16 questions based on medical assumptions, supported by substantial evidence, that reflect all the
17 plaintiff's limitations. See Roberts v. Shalala, 66 F.3d 179, 184 (9th Cir. 1995). Specifically,
18 where the Medical-Vocational Guidelines are inapplicable because the plaintiff has sufficient
19 non-exertional limitations, the ALJ is required to obtain vocational expert testimony. See
20 Burkhart v. Bowen, 587 F.2d 1335, 1341 (9th Cir. 1988).

21 Hypothetical questions posed to a vocational expert must set out all the substantial,
22 supported limitations and restrictions of the particular claimant. See Magallanes v. Bowen, 881
23 F.2d 747, 756 (9th Cir. 1989). If a hypothetical does not reflect all the claimant's limitations, the
24 expert's testimony as to jobs in the national economy the claimant can perform has no evidentiary
25 value. See DeLorme v. Sullivan, 924 F.2d 841, 850 (9th Cir. 1991). While the ALJ may pose to
26 the expert a range of hypothetical questions based on alternate interpretations of the evidence, the
27 hypothetical that ultimately serves as the basis for the ALJ's determination must be supported by
28 substantial evidence in the record as a whole. See Embrey v. Bowen, 849 F.2d 418, 422-23 (9th

1 Cir. 1988).

2 For Social Security benefits hearings, the Dictionary of Occupational Titles (DOT)
3 is the default presumption for disability classifications. Massachi v. Astrue (9th Cir. 2007) 486
4 F.3d 1149, 1150. Moreover, the ALJ has an affirmative responsibility to ask about any possible
5 conflict between vocational expert evidence and information provided in the DOT. Id. The ALJ
6 may, however, rebut the presumption of applicability of the DOT when expert testimony exists
7 that is supported by persuasive evidence contradicting the DOT. See Murry v. Apfel, 1999 U.S.
8 App. LEXIS 28911, 1, 9 (9th Cir. 1999) (holding that the Administrative Law Judge is not bound
9 by the DOT descriptions but can instead rely on the testimony of the vocational expert and own
10 findings specific to the individual plaintiff before the Administrative Law Judge); see also Tackett
11 v. Apfel, 180 F.3d 1094, 1101 (9th Cir. 1999); Moncada v. Chater, 60 F.3d 521, 524 (9th Cir.
12 1995); Distasio v. Shalala, 47 F.3d 348, 350 (9th Cir. 1995); Barker v. Secretary of Health and
13 Human Svcs., 882 F.2d 1474, 1478 n.1 (9th Cir. 1989); Terry v. Sullivan, 903 F.2d 1273, 1277
14 (9th Cir. 1990).

15 At Step 5, the ALJ determined that there are other jobs which exist in the national
16 economy that Plaintiff can perform. See CAR 974-75. The ALJ stated as follows:

17 In determining whether a successful adjustment to other work can be
18 made, I must consider the claimant's residual functional capacity, age,
19 education, and work experience in conjunction with the Medical-
20 Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the
21 claimant can perform all or substantially all of the exertional demands at a
22 given level of exertion, the medical-vocational rules direct a conclusion of
23 either "disabled" or "not disabled" depending upon the claimant's specific
24 vocational profile (SSR 83-11). When the claimant cannot perform
25 substantially all of the exertional demands of work at a given level of
26 exertion and/or has nonexertional limitations, the medical-vocational rules
27 are used as a framework for decisionmaking unless there is a rule that
28 directs a conclusion of "disabled" without considering the additional
exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the
claimant has solely nonexertional limitations, section 204.00 in the
Medical-Vocational Guidelines provides a framework for decisionmaking
(SSR 85-15).

If the claimant had the residual functional capacity to perform the full
range of light work, a finding of "not disabled" would be directed by
Medical-Vocational Rule 202.21. However, the claimant's ability to
perform all or substantially all of the requirements of this level of work
has been impeded by additional limitations. To determine the extent to
which these limitations erode the unskilled light occupational base, I asked

1 the vocational expert whether jobs exist in the national economy for an
2 individual with the claimant's age, education, work experience, and
3 residual functional capacity. The vocational expert testified that given all
4 of these factors the individual would be able to perform the requirements
5 of representative occupations such as routing clerk (DOT: 222.687-022,
light. SVP 2), router (DOT: 222.587-038, light, SVP 2) and housekeeper
(DOT: 323.687-014, light, SVP 2). Nationwide, there are 105,000 routing
clerk positions, 35,000 router positions and 220,000 housekeeper positions
available, respectively (Hearing Testimony).

6 Pursuant to SSR 00-4p, I have determined that the vocational expert's
7 testimony is consistent with the information contained in the Dictionary of
Occupational Titles.

8 Based on the testimony of the vocational expert, I conclude that,
9 considering the claimant's age, education, work experience, and residual
10 functional capacity, the claimant is capable of making a successful
11 adjustment to other work that exists in significant numbers in the national
economy. A finding of "not disabled" is therefore appropriate under the
framework of the above-cited rule.

12 CAR 974-75.

13 Here, the Court finds that the ALJ followed the proper legal framework in making
14 the determinations outlined above. Consistent with the applicable law, the ALJ did not apply the
15 Grids because Plaintiff's exertional capabilities are eroded by other limitations. In lieu of
16 applying the Grids, the ALJ appropriately obtained vocational expert testimony based on
17 hypothetical questions describing Plaintiff's age, education, work experience, and residual
18 functional capacity. As discussed above, the Court finds no error in the ALJ's determination of
19 Plaintiff's residual capacity. The Court further finds that the hypothetical questions posed to the
20 vocational expert were based on this residual functional capacity determination and, as such, are
21 based on substantial evidence. The vocational expert's answers to the ALJ's hypothetical
22 questions provide further evidence in support of the ALJ's vocational findings. Finally, the ALJ
23 appropriately inquired as to any inconsistencies between the vocational expert's testimony and
24 the DOT's definitions and concluded that none exist.

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IV. CONCLUSION

Based on the foregoing, the Court concludes that the Commissioner's final decision is based on substantial evidence and proper legal analysis. Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for summary judgment, ECF No. 11, is denied.
2. Defendant's motion for summary judgment, ECF No. 12, is granted.
3. The Commissioner's final decision is affirmed.
4. The Clerk of the Court is directed to enter judgment and close this file.

Dated: March 18, 2025



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE